

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Procedures for the Auction of Toll Free Numbers in the 833 Code)	AU Docket No. 19-101
)	
Toll Free Assignment Modification)	WC Docket No. 17-192
)	
Toll Free Service Access Codes)	CC Docket No. 95-155

COMMENTS OF CENTURYLINK

I. INTRODUCTION

CenturyLink¹ files these comments in response to the Public Notice released on May 10, 2019 in the above-referenced dockets concerning the implementation of competitive bidding for certain numbers in the 833 toll-free area code.² CenturyLink's comments center on the role of Responsible Organizations ("RespOrgs") and secondary market issues in the toll-free auction process. While CenturyLink holds some toll-free numbers for its own use, its primary role and interest with respect to toll-free number administration is through its position as a RespOrg. While RespOrgs perform certain administrative duties for their end user customers with respect to toll-free numbering resources, RespOrgs stand to lack direct knowledge concerning how their end user customers will utilize the numbering resources they will be allocated. The FCC's rules and processes for competitive bidding on toll-free numbers should recognize this limitation when defining the roles and responsibilities of interested parties in an

¹ These comments are filed by and on behalf of CenturyLink, Inc. and its subsidiaries.

² Public Notice, Auction of Toll Free Numbers in the 833 Code; Comment Sought on Competitive Bidding Procedures, AU Docket No. 19-101; WC Docket No. 17-192; CC Docket No. 95-155, FCC 19-41 (rel. May 10, 2019) ("Public Notice").

auction environment. Additionally, for ease of administration, CenturyLink also supports having only contested numbers as determined through the auction eligible for the secondary market.

II. CENTURYLINK APPRECIATES THAT THE PUBLIC NOTICE PERMITS, BUT DOES NOT MANDATE, RESPORG PARTICIPATION IN THE AUCTION

CenturyLink supports the FCC's proposal to allow auction participants to bid on toll-free numbers either on their own, or through their respective RespOrgs.³ This enables auction participants to manage and control their own participation without being forced to go through their RespOrgs as part of the competitive bidding process. This is reasonable since auction participants themselves will presumably have a more direct, and therefore stronger, interest in any particular numbering resource. Similarly, since RespOrgs are not mandated to participate on behalf of their customers, this provides welcome flexibility to RespOrgs that would prefer not to participate in the auction process. This also enables a RespOrg to avoid a scenario where it could unwittingly be tapped to participate in the auction by two different customers that are interested in the same numbering resource(s).

CenturyLink also agrees with the FCC's proposal that a bidder participate in the same manner for all numbers, and not selectively bid on some numbers through the RespOrg while bidding on others directly.⁴ CenturyLink agrees having this bright line on participation will not only help clarify roles being played by the various parties but will also promote the integrity of the auction process.

³ Public Notice, ¶ 13.

⁴ *Id.*

III. ELIGIBILITY FOR THE SECONDARY MARKET SHOULD BE DETERMINED BY MUTUAL EXCLUSIVITY AT AUCTION

The *Toll Free Modernization Order* established an exception to the rules prohibiting the brokering, hoarding, and warehousing of toll-free numbers for numbers acquired in an auction.⁵ While this approach makes sense for numbers subject to competitive bidding during the auction process, it seems an open question remains about numbers obtained through an auction when no competing bids are submitted on them (i.e., numbers with no bids or only one bid). In these cases, when numbers do not require competitive bidding to be allocated and are allocated either by a default⁶ or when there is only a single bidder, these numbers should not be eligible for the secondary market and the exemption on brokering, hoarding, and warehousing. Stated somewhat differently, in order for the secondary market and related rule exemptions to apply, there should be mutual exclusivity during the auction to demonstrate there is continued competitive interest in the numbering resource at issue. Otherwise, the Commission risks affording a special status and related reporting requirements to numbers based on competitive interest that was fleeting and not demonstrated at the auction. To avoid this consequence, only numbers with two or more bids during the auction (notwithstanding any defaults) should be eligible for the secondary market.

⁵ *Toll Free Assignment Modernization; Toll Free Service Access Codes*; WC Docket No. 17-192, CC Docket No. 95-155, Report and Order, FCC 18-137 (rel. Sep. 27, 2018), ¶¶ 79-85.

⁶ In the event there are two bidders for a number at auction, and the winner defaults, CenturyLink supports allocating the number to the other bidder for free.

IV. THE PUBLIC NOTICE PROPOSES ASSESSING RESPORGS UNDUE PENALTIES FOR FAILING TO REPORT SECONDARY MARKET TRANSACTIONS

The *Toll-Free Modernization Order* requires RespOrgs to report to Somos to facilitate information about secondary market transactions.⁷ To this end, the Public Notice, however, proposes to penalize RespOrgs that fail to report secondary market transactions within 60 days by revoking their access to the Toll Free Database until the required data is reported.⁸

This penalty is misplaced and too severe. The Public Notice supposes that 60 days is somehow sufficient for RespOrgs to become aware of and report secondary market transactions because they would have two billing cycles to become aware that a reportable transaction has occurred.⁹ It is not only possible, but foreseeable, that RespOrgs may not know of a secondary market transaction within the 60-day timeframe (or at all). Simply put, RespOrgs do not control the toll-free numbering resources of their customers and may not be informed of a transaction.¹⁰ Further, contrary to the suggestion in the FCC's Public Notice, a change of RespOrg will not necessarily indicate whether a secondary market transaction has taken place. Moreover, denying RespOrgs access to the Toll Free Database would cripple their function, and is an unduly harsh outcome for a reporting violation.

Instead of the Public Notice's proposal, obligations should be placed on toll-free numbering users to report secondary market transactions and not on RespOrgs. To the extent the

⁷ Public Notice, ¶ 58 (citing *Toll Free Assignment Modernization Order*, at ¶ 85).

⁸ Public Notice, ¶ 58.

⁹ *Id.*

¹⁰ See Report to the NANC of the Toll Free Assignment Modernization (TFAM) Work Group, Recommended Rule and Policy Changes: Toll Free Number Assignment Modernization, May 18, 2018, at Appendix B-4 (recognizing the impracticality of RespOrgs reporting on secondary market transactions).

Commission declines to take this approach, there must be allowances made for the potential gaps in knowledge RespOrgs may have with respect to secondary market transactions.¹¹ For example, any timeframe obligating RespOrgs to report secondary market transactions should start upon the RespOrg's actual knowledge that a secondary market transaction has, in fact, occurred. The proposed penalties should also be softened or eliminated completely with respect to RespOrgs to avoid unduly impacting their operations for reporting violations concerning transactions to which the RespOrgs may not even be parties. These steps would better align compliance obligations with marketplace realities while avoiding overly harsh consequences.

V. CONCLUSION

CenturyLink appreciates the opportunity to comment on the Public Notice and looks forward to shaping rules and processes for competitive bidding on toll-free numbers that recognize the unique role RespOrgs play in toll free number administration.

Respectfully submitted,

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¹¹ For example, it is unclear whether RespOrgs are going to be able to obtain sale price information from their customers. Public Notice, at ¶ 57.